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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,794	05/02/2001	Jackie L. Huffman	8830	4912

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EXAMINER

JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,794

Applicant(s)

HUFFMAN, JACKIE L.

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/2/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-8, 10-13, 15-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Stephen, U.S. Patent No. 6,049,779.

Regarding Claims 1 and 11 Berkson teaches a method and system for providing employee (call center agent, agent, cashier, service provider, worker, etc.) performance monitoring, feedback and motivation (Abstract; Column 2, Lines 38-68; Column 3, Lines 1-12). More specifically Berkson teaches that the system and method for providing feedback to an employee at a terminal (service terminal, computer, etc.) comprises:

- displaying a plurality of information to an employee at a terminal (telecommunications terminal);
- monitoring and measuring the employee's performance during a work session (shift, time period; performance data collection system, performance evaluation component; Column 2, Lines 43-45; Column 6, Lines 31-49; Figure 1, Element 26 as shown below; Figure 2, Element 60);
- generating a performance report at the end of the work session comparing the employee's measured performance with the performance goal ("At the completion of a

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call by the ACD agent, the system automatically generates measurements of the two monitored performance parameters.... and compares the performance measurements to established performance parameter standards", Column 3, Lines 1-10 and 45-50; Column 6, Lines 55-68; Column 9, Lines 35-40; Figure 2, Elements 60-62; Figure 3, Elements 80-84).

Berkson further teaches that the collection and reporting of employee performance metrics and automated systems for motivating employees based on performance feedback, including the display (at the employee's terminal) of an employee's current performance, is old and well known in the art (Column 1, Lines 21-68).

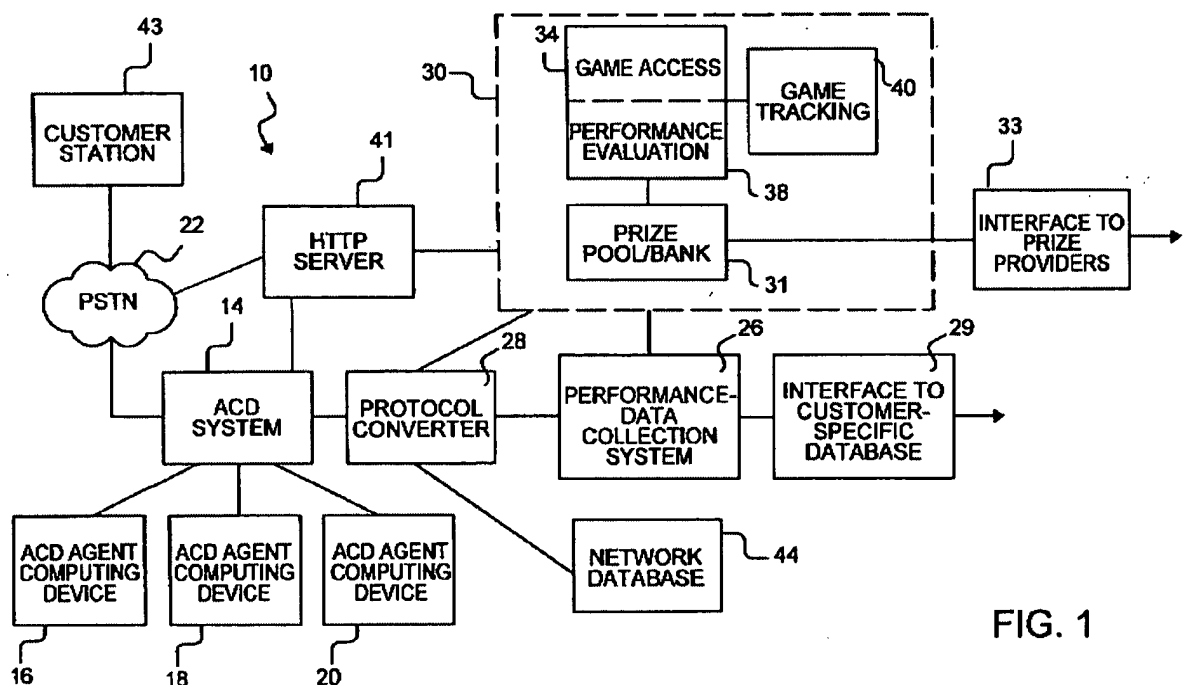


FIG. 1

Berkson does not expressly teach that the system for providing feedback to an employee is applied to a retail environment (i.e. employees being cashiers that utilize point-of-sale (POS) terminals) or that the employee performance system displays performance goal at the start of the work session.

As per applicant's own admission it is old and well known to provide feedback to a cashier at a point-of-sale terminal (retail environment) and that providing (i.e. displaying) performance targets/goals prior, during and after a session (time period, training session, shift, activity, etc.) is a good motivator. More specifically as per applicant's own admission it is old and well known in the art:

- to perform time study (time-motion analysis) of work functions in order to provide feedback to an employee (Murray, John, U.S. Patent No. 4,413,277: Abstract; work pace, interactive feedback);
- to provide (monitor, display, report, etc.) feedback to employees (agents, cashiers, etc.; "It is known that one way to motivate employees to perform their tasks as efficiently as possible is to provide them with ongoing feedback as to their level of performance. In a retail store, one important task having a direct impact on customer satisfaction is the speed and accuracy with which the checkout process is accomplished.", Specification Page 1, Lines 11-14; Murray: Column 3, Lines 22-29; Column 4, Lines 30-40; Ferriter: U.S. Patent No. 5,212,635: Column 2, Lines 50-68; Column 3, Lines 1-11; LaRoche U.S. Patent No. 5,239,460: Column 4, Lines 22-25);

- to display a performance goal (screen, icon, target, standard time, time remaining, character, etc.) to an employee (cashier, technician, agent, etc.; Murray: Figures 2 and 7; Ferriter: "Upon the initiation of an operation having a known labor standard time value a graphic representation...is automatically presented...", Abstract; Column 5, Lines 1-29; Column 6, Lines 25-36);

- to measure and compare an employees current performance with past or standard performances (Murray: Column 12, Lines 48-61; Nashner U.S. Patent No. 5,980,429: Abstract); and

- to provide users with individualized performance goals (targets) upon which individualized feedback is provided (Nashner: "A well accepted principle in education is that a trainee striving to achieve a clearly identified, objective goal while receiving periodic objective feedback relative to his progress is the best motivated.", Column 3, Lines 32-35; Column 4, Lines 12-27).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems and the well know application of those performance feedback techniques, method and systems to retail environments, enables retailers to provide feedback to a cashier at a point-of-sale terminal; the resultant system enabling retailers (merchants, businesses) to enhance an employee's overall performance by motivating the employee to meet target (desired, standard, goal) performance metrics (Berkson: Abstract).

Regarding Claims 2 and 12 Berkson teaches an employee feedback system and method wherein the system can be personalized ("The PDC can be programmed to monitor target performance parameters, or metrics, that are associated with each ACD agent's performance." Column 6, Lines 36-38), that an individual account is maintained for each employee (Column 3, Lines 17-21) and that performance parameters and performance evaluation frequency are adjustable (Column 4, Lines 21-22; Column 9, Lines 35-47).

Regarding Claims 3 and 13 Berkson teaches a system for providing employee performance feedback wherein the employee's performance is measured against standard/target performance levels (Column 3, Lines 1-10 and 45-50; Column 6, Lines 55-68; Column 9, Lines 35-40; Figure 2, Elements 60-62; Figure 3, Elements 80-84).

Berkson does not teach an employee feedback system wherein the performance goal is determined using historical performance data for each individual employee (cashier) as claimed.

As per applicant's own admission it is old and well known to provide performance feedback wherein the feedback is based all or in part on the historical performance of each individual employee (LaRoche: "The current measure or measures obtained for each individual agent are used to derive for each individual agent a current indicator of

the individual agent's overall performance.", Column 1, Lines 60-68; Murray: "previous studies", Column 1, Lines 40-54; Column 12, Lines 48-61; Column 13, Lines 1-35; Nashner: "Benchmark-data may be obtained from previous subject performance...", Abstract).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems, specifically the utilization of historical (past/previous) performance data provides a basis for personalized performance feedback thereby enabling employees to gauge their progress towards performance goals (Murray: "...an indication of the operator's progress from previous measurement...", Column 13, Lines 23-25), would have enabled retailers to provide performance feedback to a cashier at a point-of-sale terminal the resultant system enabling retailers (merchants, businesses) to enhance an employee's overall performance by motivating the employee to meet target (desired, standard, goal) performance metrics (Berkson: Abstract).

Regarding Claims 5 and 15 Berkson teaches a system and method for providing individualized employee performance feedback as discussed above; the employee performance feedback inherently having a means for uniquely identifying individual employees (call center systems, ACD, etc., provide agent identification means for the purposes of call routing, agent monitoring and the like).

Berkson does not expressly teach that the employee performance feedback system displays a performance goal when the employee (cashier) logs onto (into) the system as claimed.

As per applicant's own admission the displaying of performance and other information at any of a plurality of times including but not limited to the initiation of the system (start-up, logon, etc.) or activity to be monitored is old and well known (Ferriter: Abstract; Column 3, Lines 1-11; LaRoche: Column 3, Lines 46-61; Column 4, Lines 20-26; Figure 1, Element 111).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems, specifically the ability of such systems to display the performance goal/target for the employee at a plurality of times (startup, during activity, end of activity, etc.), provides retailers with the ability to provide performance feedback to a cashier at a point-of-sale terminal; the resultant system enabling retailers (merchants, businesses) to enhance an employees overall performance by motivating the employee to meet target (desired, standard, goal) performance metrics (Berkson: Abstract).

Further it would have been obvious to one skilled in the art at the time of the invention that displaying a performance goal at the beginning of a work session

provides a clearly identified and objective metric for the employee to achieve during the session (Nashner: "A well accepted principle in education is that a trainee striving to achieve a clearly identified, objective goal while receiving periodic objective feedback relative to his progress is the best motivated.", Column 3, Lines 32-35; Column 4, Lines 12-27).

Regarding Claim 6 Berkson teaches a method and system for providing employee performance feedback wherein the employee terminal runs a general application (call center application, system) as discussed above. Berkson further teaches that once an employee achieves a targeted performance level the employee earns and received a performance reward (game, points, prizes) from the reward subsystem/application after receiving the reward the employee is returned to the general application (system; Column 3, Lines 1-12, 5-68).

Berkson does not expressly teach an employee performance feedback system and method teach wherein the terminal returns to the general system from the performance goal screen (prompt, message, display) upon receiving input from the employee.

As per applicant's own admission prompting the user for or providing the user with information regarding the system or its use (i.e. interacting with user, human computer interface) and returning the users to the original (general application) after the

users interaction with the information and/or request is old and well known (LaRoche: "...returns to the point of its invocation...", Column 3, Lines 57-59).

Further it is old and very well known in computer systems to provide user information and/or requests in the form of splash screens, initial screens, prompts, queues, messages or the like thereby enabling/expecting the user to interact with the information and/or requests and further it is old and well known that after the user interacts with the information and/or request (acknowledgement, cancel, etc) returning the user to the task, activity, system, etc. they were utilizing prior to the information/request.

It would have been obvious to one skilled in the art at the time of the invention that the system for providing feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems, specifically the ability of such systems to display the performance goal/target for the employee at a plurality of times (startup, during activity, end of activity, etc.) and returning the employee to the "point of invocation" so the employee can resume the pervious/current task/activity, would have enabled retailers to provide feedback to a cashier at a point-of-sale terminal by displaying and prompting the employee to acknowledge their performance target/goal at the start of a shift (work session); the resultant system motivating the employee to meet the agreed upon performance target (desired, standard, goal).

Regarding Claim 7 Berkson teaches a system and method for providing employee performance feedback as discussed above.

Berkson does not expressly teach an employee performance feedback system wherein the performance goal screen returns to the general application (system) when an on-screen button is pushed. More generally Berkson does not expressly teach that the employee performance feedback system utilizes a touch-screen input device.

As per applicant's own admission the utilization of touch-screens as input devices (terminals) is old and well known (Murray: "The system can also be provided with a touch screen input module... In operation, control functions...are displayed on the screen of the monitor and by simply touching the screen at the place where the function is displayed; the control function is carried out. This form of input is particularly useful during interactive feedback with the operator.", Column 5, Lines 1-9; Figure 1, Elements 14, 25). Further as per the applicant's own admission the prompting the user for or providing the user with information regarding the system or its use is old and well known as discussed above.

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems, specifically the ability to provide the employee with a touch-screen input

device through which the employee can interact with the performance feedback system, provides employees with a simple and interactive interface to the performance feedback system.

Regarding Claims 8 and 16 Berkson teaches an employee performance feedback system and method wherein the employee's performance is displayed at a plurality of times/frequencies including but not limited to the end of a shift (e.g. employees routinely log off systems/terminals at their end of their shift in order to allow/enable other employees to utilize the system/equipment; "...performance evaluation frequency is adjustable...", Column 4, Lines 21-22; Column 3, Lines 45-49; "once per shift", Column 9, Lines 35-47).

While Berkson teaches that the employee performance feedback system is capable of displaying an employee's performance feedback at any point in time (frequency) Berkson does not expressly teach displaying the performance feedback when the employee logs off the system.

As per applicant's own admission providing a performance report to an employee when the employee logs off the system (completes the activity, at the end of a shift, etc.) is old and well known (LaRoche: "When an agent logs off the system routine 260 is invoked...Routine 260 retrieves contents of the fields...and sends them to a reporting

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function...The reporting function...reports the information to the supervisor...", Column 4, Lines 59-68; Column 5, Lines 1-4; Figure 6).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to an employee, as taught by Berkson coupled with well known performance feedback techniques, methods and systems, specifically the ability to provide the employee with immediate performance feedback (performance report) at the end of their shift in response to the employees logging off the system, provides employees with a clear indication of the performance and progress toward their performance goals (Murray: "...an indication of the operator's progress....", Column 13, Lines 23-25; "How did I do?", Column 13, Line 1).

Regarding Claims 10 and 18 teaches an employee feedback system and method wherein the system can be personalized ("The PDC can be programmed to monitor target performance parameters, or metrics, that are associated with each ACD agent's performance." Column 6, Lines 36-38) and that an individual account is maintained for each employee (Column 3, Lines 17-21); the employee performance feedback system inherently enabling the creation and utilization of individual performance goals by a user (supervisor, system administrator, manager, trainer, etc.). Berkson further teaches that the employee performance feedback system has a multi-tiered architecture consisting of a plurality of employee terminals connected through a network to a plurality of sub-systems (back-end components, modules, servers, etc.; Figure 1 as shown above).

3. Claims 4, 9, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berkson, Stephen, U.S. Patent No. 6,049,779 as applied to claims 1-3, 5-8, 10-13, 15-16 and 18 above, and further in view of Green, Graham Martin, UK Patent Application No. GB 2306025A.

Regarding Claims 4 and 14 Berkson teaches an employee feedback system wherein the system is integrated with existing call center technologies and systems (terminal, ACD, etc.; Figure 1 as shown above).

Berskson does not teach that the employee feedback system includes a point-of-sale terminal running a general point-of-sale application (software, system, module, etc.) or subsequently that the performance goal and report screens are integrated into the operation of the point-of-sale system as claimed.

As per applicant's own admission it is old and well known to provide feedback to a cashier at a point-of-sale terminal (retail environment) and that providing performance targets/goals prior, during and after a session is a good motivator as discussed above.

Green, teaches a system and method for displaying point-of-sale station and clerk performance feedback (evaluation; Abstract). More generally Green teaches that the system and method for monitoring, measuring and displaying (providing) performance feedback comprises collecting, monitoring, analyzing and storing a

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plurality of transaction information to be used to critique cashiers (provide feedback, monitor performance; Page 1, Lines 7-10 and 21-19; Figure 3). Green further teaches cashier performance tracking, monitoring, etc. is old and well known in the art ("clerk critique"; Page 1, Lines 23-29).

More specifically Green teaches that the cashier performance feedback system is integrated with a point-of-sale terminal running a general point-of-sale system (i.e. receives/retrieves transactional data from existing point-of-sale terminal/system; Figure 1; Abstract; Page 4, Lines 20-25; Page 6, Lines 4-12).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to an employee, as taught by Berkson coupled with the cashier and point-of-sale station performance feedback system, specifically the systems integration with and utilization of point-of-sale terminals running a general point-of-sale application, in view of the teachings of Green provides retailers with an employee performance feedback system that utilizes/leverages their existing systems (hardware, software, etc.) and data (transaction logs, sales data, etc.) to provide performance feedback to a cashier at a point-of-sale terminal thereby motivating the employee to meet target performance metrics (Berkson: Abstract).

Regarding Claims 9 and 17 Berkson teaches that the employee performance feedback system and method has an multi-tiered architecture comprising a plurality of employee terminals (front-end, agent computing device, customer station), back-end subsystems (modules, components, applications) including but not limited to the performance data collection, evaluation and reward (motivator) subsystems, network database and a network connecting the various terminals and subsystems (layers of the system; Figure 1 as shown above; Column 5, Lines 57-68; Column 6, Lines 1-35). Berkson further teaches that the employee performance feedback system utilizes a plurality of Internet technologies (Figure 1 as shown above).

Berkson does not expressly teach that the employee performance feedback system utilizes point-of-sale terminals as claimed.

Green teaches a system and method for displaying point-of-sale station and clerk performance feedback in a retail environment (Page 4, Lines 20-25; Page 5, Lines 1-15; Page 6, Lines 4-12; Figure 1) wherein the system has a multi-tier architecture and comprises a plurality of point-of-sale terminals connected via a network to a central system (server, CPU, etc.).

It would have been obvious to one skilled in the art at the time of the invention that the system for providing performance feedback to an employee, as taught by Berkson coupled with the cashier and point-of-sale station performance feedback

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system, specifically the systems integration with and utilization of a point-of-sale terminal running a general point-of-sale application, in view of the teachings of Green provides retailers with an employee performance feedback system that utilizes/leverages their existing systems (hardware, software, etc.) and data (transaction logs, sales data, etc.) to provide performance feedback to a cashier at a point-of-sale terminal thereby motivating the employee to meet target performance metrics (Berkson: Abstract).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Hartmeier, Martina K., U.S Patent No. 5,864,616, teaches a method and system for providing performance feedback (statistics) to employees (agents) in real-time wherein a plurality of data is collected and monitored from existing systems (terminals, applications).

- Siefert, David M., U.S. Patent No. 6,047,261, teaches a method and system for monitoring individual employee performance (user interaction) with a system wherein the employees performance and his/her performance progress is tracked while utilizing a touch screen terminal (computer, point-of-sale terminal, ATM, etc.).

- Matsko et al., U.S. Patent No. 6,792,394, teach a method and system for monitoring and determining retail performance metrics in a retail environment (point-of-sale terminal, cashiers, etc.). Matsko et al. further teach that performance monitoring and performance systems are old and well known in retail environments and that several well known approaches are utilized in retail performance monitoring systems one of which is the use of hardware/software systems wherein timing, transaction and other system data is collected, analyzed and reported on with regards to a clerks or point-of-sale terminals performance. Matsko et al. further teaches that the performance monitoring and reporting system (software, hardware, etc.) is integrated with existing point-of-sale and other general retail systems.

- Walker et al., U.S. Patent No. 6,871,185, teach a system and method for providing individualized employee performance feedback in a retail environment (cashier, point-of-sale terminal). Walker et al. further teach that the employee feedback system captures, reports and rewards employees utilizing a plurality of performance metrics (e.g. activity rate, etc.) and goals (targets, standard, thresholds).

- Ryan et al., U.S. Patent No. 6,871,195, teach a method and system for providing personalized performance feedback.

- Matsko, Michael James, U.S. Patent Publication No. 2005/0038695, teaches a system and method for storing performance metrics in a retail environment. More specifically Matsko teaches that individual clerk performance is monitored and reported on in a retail environment (cashiers, point-of-sale terminals, systems and applications) utilizing a plurality of data from the retail system being utilized (e.g. transaction logs, etc.)

- McGloin et al., WO 02/272571 A2, teach a performance management system and method. McGloin et al. further teach performance management system enables a user to setup employees (customer service agents), configure employee objectives (performance goals, targets, etc.), collect (capture) and analyze performance data from a plurality of systems (external systems, integration engine). McGloin et al. further teaches that the performance management system has a multi-tiered architecture.

- Grant, Rebecca et al., Monitoring Service Workers via Computer, teach the well-known and well-established use of computerized performance monitoring and control systems (CPMCS) and that CPMCSs are utilized for a plurality of reasons

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including but not limited to providing employee performance feedback. Grant et al. further teach the typical applications for (e.g. "help employees track and evaluate personal performance"), design options for and types of CPMCSs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJ
4/15/2005


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